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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

IOLA FAVELL, SUE ZARNOWSKI,
MARIAH CUMMINGS, and AHMAD
MURTADA, *on behalf of themselves and
all others similarly situated,*

Plaintiffs,

vs.

UNIVERSITY OF SOUTHERN
CALIFORNIA and 2U, INC.,

Defendants.

Case Nos. 2:23-cv-00846-GW-MAR
2:23-cv-03389-GW-MAR

Assigned to: Hon. George H. Wu

JOINT STATUS REPORT

Status Conference: November 16, 2023,
8:30 a.m.

PRELIMINARY STATEMENT

Plaintiffs Iola Favell, Sue Zarnowski, Mariah Cummings, and Ahmad Murtada, and Defendants University of Southern California (“USC”) and 2U, Inc. (“2U”) respectfully submit this Joint Status Report in advance of the November 16, 2023 status conference.

Identical reports are being filed in both *Favell I* (No. 2:23-cv-00846-GW-MAR) and *Favell II* (No. 2:23-cv-03389-GW-MAR), as the two cases differ only in the causes of action, not the factual allegations.

JOINT STATUS REPORT

I. Status of Pleadings

The operative pleading in *Favell I* is the Second Amended Complaint (“SAC”), which asserts a single cause of action against USC and 2U for violation of the Consumer Legal Remedies Act (“CLRA”), Civil Code § 1770 *et seq.* See *Favell I* Dkt. 67.

The operative pleading in *Favell II* is the First Amended Complaint (“FAC”), which asserts four causes of action against USC and 2U for: (1) violation of California’s False Advertising Law (“FAL”), Cal. Bus. & Prof. Code § 17500 *et seq.*; (2) violation of California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code § 17200 *et seq.*; and (3) violation of the Consumer Legal Remedies Act (“CLRA”), Cal. Civil Code § 1770 *et seq.* See *Favell II* Dkt. 58.

The pleadings are not yet settled, as 2U moved to dismiss the *Favell I* SAC and *Favell II* FAC. That motion is currently pending and set for hearing on November 16, 2023. See Section III, *infra*.

II. Disclosures and Discovery

All parties provided initial disclosures on August 4, 2023. Plaintiffs have served initial written discovery on USC and 2U as set forth below. Defendants anticipate serving initial written discovery on Plaintiffs within the next 30 days. No depositions have been noticed or taken.

1 **A. Written Discovery Between Plaintiffs and USC**

2 On July 14, 2023, Plaintiffs served an initial set of interrogatories and requests
3 for production on USC. On September 13, 2023, USC served objections and responses
4 to this written discovery.

5 Plaintiffs sent a meet-and-confer letter on October 11, 2023, which raises
6 concerns about certain aspects of USC's discovery responses. USC responded to the
7 letter in writing on October 20, 2023. Thereafter, on November 2, 2023, Plaintiffs and
8 USC met and conferred by videoconference and reached agreements on some, but not
9 all, of the disputed objections and responses. Plaintiffs and USC are continuing to
10 attempt informal resolution of their discovery dispute without the need for judicial
11 intervention.

12 **B. Written Discovery Between Plaintiffs and 2U**

13 On September 13, 2023, Plaintiffs served an initial set of interrogatories and
14 requests for production on 2U. On October 12, 2023, 2U served objections and
15 responses to this written discovery. Plaintiffs sent a meet-and-confer letter on
16 November 7, 2023, and Plaintiffs and 2U will meet and confer and attempt informal
17 resolution of any discovery disputes without the need for judicial intervention.

18 **C. ESI Protocol and Protective Order**

19 The parties have diligently worked to finalize a stipulated order regarding
20 discovery of electronically stored information and a protective order for the cases. The
21 parties anticipate finalizing and submitting these documents before the November 16,
22 2023 conference.

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III. Motions

A. *Favell I* Motions

On February 3, 2023, 2U removed this matter from Los Angeles Superior Court. *Favell I* Dkt. 1 (Notice of Removal). USC and 2U moved to dismiss the *Favell I* Class Action Complaint on March 8, 2023. *Favell I* Dkt. 28 (2U Motion), 30 (USC Motion).

Plaintiffs filed a First Amended Complaint (“FAC”) on March 29, 2023, and USC and 2U’s motions were denied as moot. *Favell I* Dkt. 32 (FAC), 33 (Order on Motions to Dismiss).

On April 12, 2023, USC and 2U moved to dismiss the FAC. *Favell I* Dkt. 42 (USC Motion), 43 (2U Motion). The Court issued and adopted its tentative ruling denying USC’s motion to dismiss and granting with leave to amend 2U’s motion to dismiss. *Favell I* Dkt. 64.

Plaintiffs filed their SAC on July 28, 2023. *See Favell I* Dkt. 67 (SAC).

2U moved to dismiss the *Favell I* SAC. *Favell I* Dkt. 77 (2U Motion). The motion is pending and set for hearing on November 16, 2023. *See id.*

B. *Favell II* Motions

On May 3, 2023, 2U removed *Favell II* from the Los Angeles Superior Court. *Favell II* Dkt. 1 (Notice of Removal). On May 24, 2023, Plaintiffs moved to remand the action, and USC moved to stay the matter. *Favell II* Dkt. 30 (Plaintiffs Motion to Remand), 31 (USC Motion to Stay). The Court denied both motions on July 6, 2023. *Favell II* Dkt. 46 (Tentative Ruling), 47 (Minute Order).

Plaintiffs amended their complaint on July 27, 2023. *Favell II* Dkt. 58 (FAC).

2U moved to dismiss the FAC on August 24, 2023. *Favell II* Dkt. 67 (2U Motion). The motion is pending and set for hearing on November 16, 2023. *See id.*

C. Class Certification and Summary Judgment

The parties submit that it is premature to set a deadline for the class certification motion before the pleadings are set and jointly propose that the parties submit their

positions regarding the date for Plaintiffs to file their class certification motion within 14 days of the Court's ruling on 2U's pending Motion to Dismiss to allow the parties to consider any impacts that motion has on the parties, claims, and scope of discovery at issue.

IV. ADR

The parties have not yet engaged in efforts to settle or resolve this case, as they believe that settlement efforts remain premature at this time.

Dated: November 9, 2023

SHOOK HARDY & BACON L.L.P.

By: /s/ Michael L. Mallow

Michael L. Mallow

Attorney for Defendant

University of Southern California

Dated: November 9, 2023

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Dated: November 9, 2023

Respectfully Submitted,

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1 **ATTESTATION OF CONCURRENCE IN FILING**

2 In accord with the Central District of California Local Rule 5-4.3.4(a)(2)(i), I,
3 Michael Mallow, attest that concurrence in the filing of this document has been obtained
4 from each of the other signatories who are listed on the signature page(s). Executed on
5 this 9th day of November, 2023, in Los Angeles, CA.

6 /s/ Michael Mallow
7 Michael Mallow